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Attorney for Claimant
JEANS MENDOZA-MORA

UNITED STATES DISTRICT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No.: 12-CV-00457-JAP-WDS
)	
Plaintiff,)	ANSWER TO COMPLAINT
)	FOR FORFEITURE AND DEMAND
vs.)	JURY TRIAL
)	
\$40,050.00 U.S. CURRENCY)	
)	
Defendant.)	
)	
JEANS MENDOZA-MORA)	
)	
Claimant.)	

Claimant, JEANS MENDOZA-MORA, through his duly authorized attorney, hereby answers Plaintiff's Complaint for Forfeiture as follows:

PRELIMINARY MATTERS

1. Answering Paragraph 1 of the Complaint, Claimant, JEANS MENDOZA-MORA, admits each and every allegation contained therein.

2. Answering Paragraph 2 of the Complaint, Claimants, JEANS MENDOZA-MORA, admits each and every allegation contained therein.

3. Answering Paragraph 3 of the Complaint, Claimant, JEANS MENDOZA-MORA, admits each and every allegation contained

1 therein.

2 4. Answering Paragraph 4 of the Complaint, Claimant,
3 JEANS MENDOZA-MORA, admits each and every allegation contained
4 therein.

5 5. Answering Paragraph 5 of the Complaint, Claimant,
6 JEANS MENDOZA-MORA, admits each and every allegation contained in
7 part "a", and denies part "b" therein.

8 6. Answering Paragraph 6 of the Complaint, Claimant,
9 JEANS MENDOZA-MORA, lacks information or belief sufficient to
10 answer the allegation and therefore denies the allegation.

11 7. Answering Paragraph 7 of the Complaint, Claimant,
12 JEANS MENDOZA-MORA, lacks information or belief sufficient to
13 answer the allegation and therefore denies the allegation up to
14 the third lin. Claimant admits to the remaining of paragraph 7.

15 8. Answering Paragraph 8 of the Complaint, Claimant,
16 JEANS MENDOZA-MORA, admits each and every allegation contained
17 therein.

18 9. Answering Paragraph 9 of the Complaint, Claimant,
19 JEANS MENDOZA-MORA, denies each and every allegation contained
20 therein.

21 10. Answering Paragraph 10 of the Complaint, Claimant,
22 JEANS MENDOZA-MORA, admits each and every allegation contained
23 therein.

24 11. Answering Paragraph 11 of the Complaint, Claimant,
25 JEANS MENDOZA-MORA, lacks information or belief sufficient to
26 answer the allegation and therefore denies the allegation.

27 12. Answering Paragraph 12 of the Complaint, Claimant,
28 JEANS MENDOZA-MORA, lacks information or belief sufficient to

1 answer the allegation and therefore denies the allegation.

2 13. Answering Paragraph 13 of the Complaint, Claimant,
3 JEANS MENDOZA-MORA, denies each and every allegation contained
4 therein.

5 14. Answering Paragraph 14 of the Complaint, Claimant,
6 JEANS MENDOZA-MORA, admits each and every allegation and denies
7 the last sentence of paragraph 14.

8 15. Answering Paragraph 15 of the Complaint, Claimant,
9 JEANS MENDOZA-MORA, denies each and every allegation contained
10 therein.

11 16. Answering Paragraph 16 of the Complaint, Claimant,
12 JEANS MENDOZA-MORA, denies each and every allegation contained
13 therein.

14 17. Answering Paragraph 17 of the Complaint, Claimant,
15 JEANS MENDOZA-MORA, denies each and every allegation contained
16 therein.

17 18. Answering Paragraph 18 of the Complaint, Claimant,
18 JEANS MENDOZA-MORA, admits each and every allegation contained
19 therein.

20 19. Answering Paragraph 19 of the Complaint, Claimant,
21 JEANS MENDOZA-MORA, lacks information or belief sufficient to
22 answer the allegation and therefore denies the allegation.

23 20. Answering Paragraph 20 of the Complaint, Claimant,
24 JEANS MENDOZA-MORA, admits each and every allegation contained
25 therein.

26 21. Answering Paragraph 21 of the Complaint, Claimant,
27 JEANS MENDOZA-MORA, denies each and every allegation contained
28 therein.

1 22. Answering Paragraph 22 of the Complaint, Claimant,
2 JEANS MENDOZA-MORA, denies each and every allegation contained
3 therein.

4 23. Answering Paragraph 23 of the Complaint, Claimant,
5 JEANS MENDOZA-MORA, denies each and every allegation contained
6 therein.

7 **FIRST AFFIRMATIVE DEFENSE**

8 The complaint fails to state a claim against the defendant
9 property upon which relief can be granted.

10 **SECOND AFFIRMATIVE DEFENSE**

11 The statutes and regulations relating to the seizure of the
12 defendant property are void and unenforceable as violative of the
13 Constitution of the United States and cannot, therefore , provide
14 the basis for forfeiture of the property in that:

15 A. Said statutes and regulations provide for the taking of
16 property without due process of law without just compensation in
17 violation of the Fifth Amendment:

18 B. Said statutes and regulations provide that the
19 Claimant,
20 and not the seizing authority, has a burden proof of herein, in
21 violation of the Fifth Amendment:

22 C. Said statutes and regulations provide for the taking of
23 property without due process of law in that they permit a seizure
24 without prior hearing; and

25 D. Said statutes and regulations provide for the taking of
26 property from parties innocent of any wrongdoing.

27 **THIRD AFFIRMATIVE DEFENSE**

28 The law enforcement officers who seized the defendant

1 property were not authorized to do so under the statutes and
2 regulations relating to the seizure and forfeiture of property.

3 **FOURTH AFFIRMATIVE DEFENSE**

4 Claimant is bona fide and innocent owner of said property
5 and as such the forfeiture is a violation of Claimant's Fifth and
6 Fourteenth Amendment rights to due process of law.

7 **FIFTH AFFIRMATIVE DEFENSE**

8 The Seizure of the Claimant's property was without the
9 requisite probable cause and therefor was in violation of the
10 Fourth and Fifth Amendments to the Constitution of the United
11 States.

12 **SIXTH AFFIRMATIVE DEFENSE**

13 Claimant allege that Title 28 U.S.C., Section 1345 and 1355
14 and Title 21 USC §881 are violations of the Fifth and Eighth
15 Amendments to the United States Constitution and can therefore
16 provide no basis for the forfeiture of Claimant's property on
17 that:

18 A. Said sections provide for additional punishment for
19 acts already criminal; such punishment is in no way relate to the
20 seriousness of the crime, and is cruel and unusual, and violation
21 of the Eighth Amendments;

22 B. Said sections provide for the taking of property without
23 due process of law, and thus, are violative of the Fifth
24 Amendment;

25 C. Said sections provide that a burden of proof shall lie
26 upon such Claimant, and not the seizing authority, and thus, are
27 violative of the Fifth Amendment;

28 D. Said sections provide for the taking of property

1 without due process of law in that they provide for seizure
2 without due process of law in that they provide for a seizure
3 without a prior hearing;

4 E. Said section provide for the taking of property third
5 parties who are completely innocent of any wrongdoing.

6 WHEREFORE, Claimant pray:

7 1. That Plaintiff take nothing by reason of its Complaint
8 herein;

9 2. That the Court award Claimant his attorneys fees and
10 costs incurred herein;

11 3. That the Defendant property be returned to Claimant;
12 and

13 4. For such other and further relief as the Court may deem
14 just and proper.

15 Demand for Jury Trial

16 Claimant, JEANS MENDOZA-MORA, pursuant to Rule 38(b) of the
17 Federal Rules of Civil Procedure, hereby demands his right to a
18 jury trial in the above entitled case.

19
20 DATED: May 29, 2012

Respectfully submitted,

21 **LAW OFFICES OF JAMES J. WARNER**

22 /s/ JAMES J. WARNER
23 JAMES J. WARNER
24 Attorney for Claimant
JEANS MENDOZA-MORA

VERIFICATION

I, JEANS MENDOZA-MORA, am the claimant in this action,
United States of America v. \$40,050.00 In U.S. Currency, Case
Number 12-CV-00457. I have read the foregoing ANSWER TO
COMPLAINT FOR FORFEITURE ("Answer") and know its contents. Said
Answer is true of my own knowledge, except as to those matters
based on information and belief and as to those matters I believe
them to be true.

I declare under penalty of perjury under the laws of the State
of California that the foregoing is true and correct.

Dated: 6-1-2012



JEANS MENDOZA-MORA

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8 Attorney for Claimant
9 JEANS MENDOZA-MORA

10 **UNITED STATES DISTRICT**

11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 UNITED STATES OF AMERICA,)

Case No.: 12-cv-00457-JAP-WDS

13 Plaintiff,)

PROOF OF ELECTRONIC SERVICE

14 vs.)

15 \$40,050.00 U.S. CURRENCY)

16 Defendant.)

17

JEANS MENDOZA-MORA)

18 Claimant.)

19 I hereby certify that I electronically filed *Claimant's*
20 *Jeans Mendoza-Mora's Answer To Complaint For Forfeiture, and*
21 *Demand For Jury Trial*, with the clerk of the Court using the
22 Court's CM/ECF system, which will send a notice of electronic
23 filing to cynthia.weisman@usdoj.gov, and all other parties of
24 record.

25 DATED: June 20, 2012

26 /s/ James J. Warner
27 James J. Warner
28 Attorney for Defendant
Jeans Mendoza Mora